

## Message Text

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ACTION EUR-12

INFO OCT-01 ISO-00 CIAE-00 DODE-00 PM-04 H-02 INR-07 L-03

NSAE-00 NSC-05 PA-01 PRS-01 SP-02 SS-15 USIA-06 IO-13

ACDA-07 EB-07 SCA-01 SCCT-01 /088 W

----- 061551

R 191226Z JUL 76

FM AMEMBASSY BONN

TO SECSTATE WASHDC 0505

INFO USMISSION USBERLIN

AMEMBASSY BERLIN

AMEMBASSY LONDON

AMEMBASSY MOSCOW

AMEMBASSY PARIS

USMISSION NATO BRUSSELS

C O N F I D E N T I A L SECTION 01 OF 02 BONN 12111

E.O. 11652: GDS

TAGS: PGOV PFOR GW US FR UK WB UR

SUBJECT: FEDERAL PROSECUTION OF LORENZ KIDNAPPERS IN  
BERLIN

REF: BONN 11917

SUMMARY. ALLIES HAVE PASSED TO FRG IN BONN GROUP THE  
NON-PAPER ON THE LORENZ PROSECUTION. THE FRG REP SAID  
HE WAS PREPARED TO DEFEND VIS-A-VIS HIS GOVERNMENT THE  
SOLUTION THEREIN OUTLINED. END SUMMARY.

1. IN JULY 16 BONN GROUP MEETING, ALLIED REPS PASSED  
TO FRG REPS THE NON-PAPER ON THE LORENZ PROSECUTION.  
FINAL VERSION OF NON-PAPER IS SLIGHTLY DIFFERENT FROM  
THAT PROVIDED REFTEL BECAUSE OF INSTRUCTIONS FROM  
LONDON AND BECAUSE OF DESIRE HERE NOT TO UNDERCUT THOSE  
IN FEDERAL GOVERNMENT WHO WE UNDERSTAND ARE ARGUING FOR  
A ROLE IN THE PROSECUTION BY OFFICIALS FROM THE BERLIN  
PUBLIC PROSECUTOR'S OFFICE. FINAL TEXT OF NON-PAPER  
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IS PROVIDED IN PARA FIVE BELOW.

2. UK REP (HITCH) ADDED THE FOLLOWING ORAL REMARKS

"SPEAKING ONLY FOR UK GOVERNMENT":

-- 1. MY GOVERNMENT CONSIDERS THAT THE FEDERAL PROSECUTOR MAY, BY VIRTUE OF THE LAWS IN FORCE IN THE WESTERN SECTORS OF BERLIN, PROSECUTE THE MEMBERS OF THE 2 JUNE MOVEMENT THERE.

-- 2. HOWEVER, IT IS ARGUABLE THAT SUCH ACTION D WOULD NOT BE CONSISTENT WITH THE QUADRIPARTITE AGREEMENT AND IT MIGHT GIVE THE RUSSIANS AN OPPORTUNITY TO QUESTION THE WHOLE RELATIONSHIP BETWEEN JUDICIAL AUTHORITIES IN BERLIN AND THE FRG WITH AN ENSUING SERIOUS CONFRONTATION. EVEN IF THE ALLIED SCENARIO WERE ADOPTED, THERE COULD STILL BE A SERIOUS QUARREL WITH THE RUSSIANS.

-- 3. THE BRITISH GOVERNMENT WOULD THEREFORE PREFER THE TRIAL TO BE HELD IN THE FRG OR FOR IT TO BE ENTRUSTED TO THE BERLIN PROSECUTOR'S OFFICE.

-- 4. MY GOVERNMENT HOPES THAT THE FEDERAL GOVERNMENT WILL TRY TO AVOID ANY FURTHER COMPLICATIONS NOT DIRECTLY LINKED WITH THE QUESTION OF BUBACK'S ROLE. ALL PREVIOUS DISPUTES WHICH THE ALLIES HAVE HAD WITH THE RUSSIANS OVER LEGAL MATTERS COULD RESURFACE SIMULTANEOUSLY IN THE CONTEXT OF THIS TRIAL.

-- 5. WE EXPECT THE GERMAN AUTHORITIES TO INFORM US WHETHER THEY CAN ACCEPT AND IMPLEMENT THE ALLIED RECOMMENDATIONS.

-- 6. ONCE THE FEDERAL GOVERNMENT HAS ACCEPTED THE PROPOSALS, THE BRITISH GOVERNMENT WILL TAKE ALL NECESSARY STEPS TO FACILITATE THEIR IMPLEMENTATION IN BERLIN.

3. FRENCH REP (BOISSIEU) SAID THE FRENCH SHARED ENTIRELY THE VIEWS EXPRESSED BY HITCH. THE US REP SAID HE WOULD ONLY LIKE TO RECALL THAT US

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REPRESENTATIVES HAD EMPHASIZED DURING PREVIOUS WEEK THAT US WAS WILLING TO WORK WITH THE OTHER THREE TO FIND A REASONABLE SOLUTION. US BELIEVES THE SOLUTION OUTLINED IN THE NON-PAPER IS SUCH A REASONABLE SOLUTION WHICH ALL FOUR CAN LIVE WITH. THE US REP ALSO RECALLED PREVIOUS US STATEMENTS OF SYMPATHY FOR THE FRG DESIRE TO PROTECT THE PRINCIPLE THAT FEDERAL PROSECUTIONS MAY CONTINUE TO TAKE PLACE IN BERLIN.

4. FRG REP (LUECKING) THANKED THE OTHERS "FOR THE  
EXTRAORDINARY WORK WHICH HAS BEEN DONE HERE ON ALL SIDES  
TO FIND A REASONABLE SOLUTION." HE SAID HE WAS

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R 191226Z JUL 76  
FM AMEMBASSY BONN  
TO SECSTATE WASHDC 0506  
INFO USMISSION USBERLIN  
AMEMBASSY BERLIN  
AMEMBASSY LONDON  
AMEMBASSY MOSCOW  
AMEMBASSY PARIS  
USMISSION NATO BRUSSELS

C O N F I D E N T I A L SECTION 02 OF 02 BONN 12111

"CERTAINLY PREPARED TO DEFEND THIS SOLUTION" VIS-A-VIS  
THE FEDERAL GOVERNMENT.

5. NON-PAPER.

BEGIN TEXT

-- 1. IF THE FEDERAL GOVERNMENT WERE TO REACH THE  
CONCLUSION THAT THE TRIAL SHOULD TAKE PLACE IN BERLIN  
AND IF IT SHOULD PROVE IMPOSSIBLE FOR THE BERLIN PUBLIC  
PROSECUTOR'S OFFICE (STAATSANWALTSCHAFT) IN ONE WAY OR  
ANOTHER TO CONDUCT THE PROSECUTION, THE THREE POWERS

WOULD ATTACH THE GREATEST IMPORTANCE TO THE FOLLOWING  
PRECAUTIONS BEING TAKEN:

(A) THE PROCEDURE ADOPTED AT THE TIME OF THE TRIAL  
OF HORST MAHLER IN 1972/73 SHOULD BE ADOPTED IN THE  
PRESENT CASE: WE RECALL THAT THE FEDERAL PROSECUTOR WAS  
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NOT THEN INVOLVED IN THE AFFAIR PUBLICLY.

(B) IF THE TRIAL MUST TAKE PLACE IN THE WESTERN  
SECTORS OF BERLIN AND IF PERSONNEL FROM THE FEDERAL  
PROSECUTOR'S OFFICE ARE TO PROSECUTE THERE, AND IF IT  
SHOULD PROVE IMPOSSIBLE FOR THE OFFICE OF THE FEDERAL  
PROSECUTOR TO DELEGATE THE PROSECUTION TO THE BERLIN  
PROSECUTOR'S OFFICE, IT WOULD BE DESIRABLE FOR THE LEGAL  
OFFICER IN CHARGE OF THE CASE TO BELONG TO THE BERLIN  
OFFICE OF THE FEDERAL PROSECUTOR.

(C) IN ORDER TO AVOID ANY APPEARANCE OF A  
POLITICAL DEMONSTRATION, THE AFFAIR SHOULD BE HANDLED  
BY THOSE CONCERNED WITH PARTICULAR RESERVE AND  
DISCRETION, ESPECIALLY IN RELATION TO THE PRESS.

-- 2. THE THREE POWERS WISH TO BE INFORMED OF THE  
DECISION OF THE GERMAN AUTHORITIES BEFORE ANY PUBLIC  
ANNOUNCEMENT IS MADE. FOR THEIR PART, THE THREE POWERS  
MAY FIND IT DESIRABLE TO  
ANNOUNCE PUBLICLY IN BERLIN BEFORE OFFICIAL CONFIRMATION  
OF THE APPOINTMENT OF THE LEGAL OFFICERS CONDUCTING THE  
TRIAL, THAT THESE OFFICERS WILL, IN CONFORMITY WITH THE  
LAWS IN FORCE IN THE WESTERN SECTORS OF BERLIN, REMAIN  
SUBJECT TO THE AUTHORITY OF THE THREE POWERS AND THAT  
DURING THE TRIAL THEY WILL, AS IS NORMAL, ACT IN  
ACCORDANCE ONLY WITH THE LAW IN FORCE IN THE WESTERN  
SECTORS OF BERLIN. END TEXT.  
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## Message Attributes

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